

JOURNAL OF THE HOUSE.

Wednesday, October 7, 2015.

Met according to adjournment at eleven o'clock A.M., with Ms. Peake of Provincetown in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

At the request of the Chair (Ms. Peake), the members, guests and employees joined with her in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Statement Concerning Representative Cariddi of North Adams.

A statement of Mr. Rushing of Boston concerning Ms. Cariddi of North Adams was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Cariddi of North Adams, is unable to be present in the House Chamber for today's sitting due to an important medical appointment. Her missing of roll calls today is due entirely to the reason stated.

Statement
concerning
Ms. Cariddi of
North Adams.

Statement of Representative Khan of Newton.

A statement of Ms. Khan of Newton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I will be unable to be present in the House Chamber for the remainder of today's sitting due to a scheduling conflict. My missing of roll calls for the remainder of today's session will be due entirely to the reason stated.

Statement of
Ms. Khan
of Newton.

Statement of Representative Story of Amherst.

A statement of Ms. Story of Amherst was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I will be unable to be present in the House Chamber for the remainder of today's sitting due to a family commitment. My missing of roll calls for the remainder of today's session will be due entirely to the reason stated.

Statement of
Ms. Story
of Amherst.

Guests of the House.

The Speaker being in the Chair,—

During the session, the Speaker declared a brief recess and introduced former Boston City Councilor and vice president of government affairs at Suffolk University, John Nucci, and the new president of Suffolk University, Margaret McKenna. President McKenna then offered brief remarks on becoming the university's president and the importance of Suffolk University's location to state and local government institutions. They were the guests of Speaker DeLeo.

Suffolk
University,—
President
Margaret
McKenna.

Resolutions.

Ms. Peake of Provincetown being in the Chair,—

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Michael and
Sandra Coyle.

Resolutions (filed by Mrs. Poirier of North Attleborough) congratulating Michael and Sandra Coyle on their fiftieth wedding anniversary; Resolutions (filed by Ms. Fox of Boston) honoring Reverend Elvina Greenaway;

Elvina
Greenaway.

Resolutions (filed by Ms. Fox of Boston) honoring Bishop Leroy Greenaway; and

Leroy
Greenaway.

World Polio
Day.

Resolutions (filed by Mr. Kafka of Stoughton) commemorating World Polio Day 2015;

Mr. Galvin of Canton, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Wong of Saugus, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communications.

Communications

Mass
Biologics.

From the University of Massachusetts Medical School (see Section 43(f) of Chapter 75 of the General Laws) submitting a report of the activities of the Mass Biologics Laboratories for the fiscal year 2015; and

Southeastern
Transit
Authority.

From the Southeastern Regional Transit Authority (under Section 8(g) of Chapter 161B of the General Laws) submitting its annual financial statements for the fiscal year 2015;

Severally were placed on file.

Annual Report.

Computer
Attainment
Network
(MassCAN).

The annual report of the Massachusetts Computer Attainment Network (MassCAN) (under Item 7007-1202 of Chapter 46 of the Acts of 2015 and Section 6I of Chapter 40J of the General Laws, established by said Chapter 46) to develop and implement a plan to promote and establish computer science education in public schools [copies forwarded to the House committee on Ways and Means and the joint committee on Economic Development and Emerging Technologies, as required by said statutes], was placed on file.

Petition.

Appellant fees,—
reimbursement.

By Mr. Murphy of Weymouth (by request), a petition (subject to Joint Rule 12) of Frank Realin relative to appellant fee reimbursement; and the same was referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

Bills

Carver,—
employees.

Regarding group health insurance for eligible employees and retirees in the town of Carver (Senate, No. 1921) (on a petition) [Local Approval Received]; and

Mount
Washington,—
broadband.

Authorizing the town of Mount Washington to establish, own and operate broadband infrastructure and services and to issue bonds or

notes therefor (Senate, No. 1978) (on a petition) [Local Approval Received];

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports of Committees.

By Mr. Galvin of Canton, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition Claire D. Cronin and Louis L. Kafka relative to the Canoe River aquifer advisory committee. Under suspension of the rules, on motion of Mr. Hecht of Watertown, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Environment, Natural Resources and Agriculture. Sent to the Senate for concurrence.

Canoe River,—
advisory
committee.

By Ms. Benson of Lunenburg, for the committee on Consumer Protection and Professional Licensure, on House, No. 226, a Bill regulating secondary metals dealings (House, No. 3797).

Secondary
metals.

By Mr. Murphy of Weymouth, for the committee on Public Service, on House, Nos. 2334 and 2432, a Bill relative to fire fighter training (House, No. 2334).

Fire services,—
instructors.

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Ms. Benson of Lunenburg, for the committee on Consumer Protection and Professional Licensure, on a joint petition, a Bill authorizing the city of Salem to convert three currently issued annual wine and malt licenses, originally issued pursuant to Chapter 149 of the Acts of 2011, to annual all alcohol licenses to be drunk on the premises (House, No. 3739) [Local Approval Received].

Salem,—
liquor
licenses.

By the same member, for the same committee, on a joint petition, a Bill authorizing the city of Salem to convert 1 seasonal license to an annual license for the sale of wines and malt beverages to be drunk on the premises (House, No. 3740) [Local Approval Received].

Id.

By the same member, for the same committee, on House, No. 214, a Bill authorizing the city of Northampton to issue five above quota annual all-alcohol restaurant licenses (House, No. 3796) [Local Approval Received].

Northampton,—
liquor
licenses.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Emergency Measure.

The engrossed Bill establishing a sick leave bank for Shirley Brathwaite, an employee of the Department of Children and Families (see House, No. 3705, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Shirley
Brathwaite,—
sick leave.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 4 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

Engrossed bills

Bills
enacted.

Relative to the granting of licenses for the sale of alcoholic beverages to be drunk on the premises in the town of Rockport (see Senate, No. 46, amended);

Authorizing the town of Topsfield to grant additional licenses for the sale of wines and malt beverages not to be drunk on the premises (see Senate, No. 1947, amended);

(Which severally originated in the Senate); and

Authorizing the town of Milford to grant an additional license for the sale of wines and malt beverages not to be drunk on the premises (see House No. 3716) (which originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Recess.

Recess.

At six minutes after eleven o'clock A.M., on motion of Mr. Wong of Saugus (Ms. Peake of Provincetown being in the Chair), the House recessed until one o'clock P.M.; and at twenty-three minutes after one o'clock the House was called to order with Mr. Donato of Medford in the Chair.

*Resolutions.*Tony
Orlando.

Resolutions (filed with the Clerk by Mr. Hill of Ipswich) congratulating Tony Orlando for his dedication and service to the veterans of our military, were referred, under Rule 85, to the committee on Rules.

Mr. Galvin of Canton, for said committee, reported, that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Hill, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Reports of Committees.

Mrs. Haddad of Somerset being in the Chair,—

By Mr. Galvin of Canton, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Students,—
head gear.

Petition (accompanied by bill) of Robert Cavanaugh and Carlos González relative to head gear for students who participate in soccer contests. To the committee on Education.

Harwich,—
Burns
bridge.

Petition (accompanied by bill) of Sarah K. Peake for legislation to designate a certain bridge in the town of Harwich as the U.S. Navy Lt. Jr. [sic] Ralph Wallace Burns memorial bridge. To the committee on Transportation.

Under suspension of the rules, on motion of Mr. Timilty of Milton, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Erica
Amoako,—
sick leave.

By Mr. Murphy of Weymouth, for the committee on Public Service, on a joint petition, a Bill establishing a sick leave bank for Erica Amoako, an employee of the Department of Developmental Services (House, No. 3757).

By the same member, for the same committee, on a petition, a Bill establishing a sick leave bank for Shannon Griffin, an employee of the Massachusetts Department of Developmental Services (House, No. 3791). Shannon Griffin,—
sick leave.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Nangle of Lowell, for said committee, then reported that the matters be scheduled for consideration by the House.

Under suspension of the rules, in each instance, on motion of the same member, the bills were read a second time forthwith; and they were ordered to a third reading.

Orders of the Day.

Mr. Donato of Medford being in the Chair,—

The engrossed Bill authorizing the appointment of retired police officers as special police officers in the city of Boston (see House, No. 2339), which had been returned by His Excellency the Governor with his objections thereto in writing (for message, see House, No. 3759), was considered. Boston,—
police.

Under the provisions of Article II of Section I of Chapter I of the Constitution, the House proceeded to “reconsider” the said bill.

After debate on the question on passing said bill, notwithstanding the objections of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 122 members voted in the affirmative and 33 in the negative. Bill passed
over veto,—
yea and nay
No. 158.

[See Yea and Nay No. 158 in Supplement.]

Therefore the bill passed, notwithstanding the objections of His Excellency the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

The House Bill relative to the trafficking of fentanyl (House, No. 3755), was read a second time; and it was ordered to a third reading. Fentanyl,—
trafficking.

Subsequently under suspension of the rules, on motion of Mr. Fernandes of Milford, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After remarks on the question on passing the bill to be engrossed, Mr. Whelan of Brewster moved to amend it in section 1 (as published), in lines 5 to 8, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following: “a net weight of 10 grams or more of fentanyl, or a net weight of 10 grams or more of any mixture containing more than 10 grams of fentanyl or any derivative thereof, if the net weight of fentanyl or any derivative thereof, or any mixture thereof is:—

(1) Ten grams or more but less than 36 grams, be punished by a term of imprisonment in the state prison for not less than 2 not more than 20 years. No sentence imposed under this clause shall be for less than a minimum term of imprisonment of 2 years, and a fine of not less than \$2,500 nor more than \$25,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

Fentanyl,—
trafficking.

(2) Thirty-six grams or more, but less than 100 grams, be punished by a term of imprisonment in the state prison for not less than 3½ nor more than 20 years. No sentence imposed under this clause shall be for less than a mandatory minimum term of imprisonment of 3½ years, and a fine of not less than \$5,000 nor more than \$50,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

(3) One hundred grams or more, but less than 200 grams, be punished by a term of imprisonment in the state prison for not less than 8 nor more than 20 years. No sentence imposed under the provisions of this clause shall be for less than a mandatory minimum term of imprisonment of 8 years and a fine of not less than \$10,000 nor more than \$100,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

(4) Two hundred grams or more, be punished by a term of imprisonment in the state prison for not less than 12 nor more than 20 years. No sentence imposed under the provisions of this clause shall be for less than a mandatory minimum term of imprisonment of 12 years and a fine of not less than \$50,000 nor more than \$500,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.”

Point of
order.

Mr. Madden of Nantucket thereupon raised a point of order that the amendment offered by the gentleman from Brewster was improperly before the House for the reason that it went beyond the scope of the pending bill.

The Chair (Mr. Donato of Medford) stated that the bill currently before the House calls for a 20 year sentence for the conviction of the crime of trafficking, manufacturing, distributing, dispensing or possessing of more than 10 grams of fentanyl or any derivate thereof. The amendment offered by the gentleman from Brewster would institute certain mandatory sentences for such trafficking or possession, but would not increase the sentences beyond the 20 year sentences contained within the bill. The pending amendment would, additionally, impose fines ranging from \$2,500 to \$500,000 upon conviction for such crimes. Although the imposition of mandatory sentencing could be considered a proviso, and hence within the scope of the pending bill, the imposition of the fines contained within the text of the amendment clearly expand upon the provisions of the bill, which contains no provisions pertaining to fines. The Chair stated further that scope is determined by the provisions of the bill, not provisions in the law that it would amend. The Chair therefor ruled that the point of order was *well taken*, and the amendment was laid aside accordingly.

Appeal from
decision of
Chair.

Mr. Jones of North Reading thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Hill of Ipswich.

The question then was put “Shall the decision of the Chair stand as the judgment of the House?”

Quorum.

After remarks, Mr. Lyons of Andover asked for a count to ascertain if a quorum was present. A count showed that 75 members were in attendance. The Chair (Mr. Donato of Medford), then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 153 members were recorded as being in attendance.

Quorum,—
yea and nay
No. 159.

[See Yea and Nay No. 159 in Supplement.]

Therefore a quorum was present.

After debate, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 113 members voted in the affirmative and 40 in the negative.

Decision
of Chair
sustained,—
yea and nay
No. 160.

[See Yea and Nay No. 160 in Supplement.]

Therefore the decision of the Chair was sustained.

Mrs. Haddad of Somerset being in the Chair,—

Mr. Whelan of Brewster then moved to amend the bill in section 1 (as published), in lines 5 to 8, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following: [A]“a net weight of 10 grams or more of fentanyl, or a net weight of 10 grams or more of any mixture containing more than 10 grams of fentanyl or any derivative thereof, if the net weight of fentanyl or any derivative thereof, or any mixture thereof is:—

(1) Ten grams or more but less than 36 grams, be punished by a term of imprisonment in the state prison for not less than 2 not more than 20 years. No sentence imposed under this clause shall be for less than a minimum term of imprisonment of 2 years.

(2) Thirty-six grams or more, but less than 100 grams, be punished by a term of imprisonment in the state prison for not less than 3½ nor more than 20 years. No sentence imposed under this clause shall be for less than a mandatory minimum term of imprisonment of 3½ years.

(3) One hundred grams or more, but less than 200 grams, be punished by a term of imprisonment in the state prison for not less than 8 nor more than 20 years. No sentence imposed under the provisions of this clause shall be for less than a mandatory minimum term of imprisonment of 8 years.

(4) Two hundred grams or more, be punished by a term of imprisonment in the state prison for not less than 12 nor more than 20 years. No sentence imposed under the provisions of this clause shall be for less than a mandatory minimum term of imprisonment of 12 years.”.

Pending the question on adoption of the amendment, Mr. Fernandes of Milford moved to amend it by striking out the text contained therein [at “A”] and inserting in place thereof the following seven paragraphs:

“(c½) Any person who trafficks in fentanyl, or any derivative thereof, by knowingly or intentionally manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, dispense, or by bringing into the commonwealth a net weight of more than 10 grams of fentanyl or any derivative thereof or any mixture containing more than 10 grams of fentanyl or any derivate thereof shall be punished by a term of imprisonment in state prison for not more than 20 years.

(c¾) Any person who trafficks in fentanyl, or any derivative thereof, by knowingly or intentionally manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, dispense, or by bringing into the commonwealth a net weight of 10 grams or more of fentanyl, or a net weight of 10 grams or more of any mixture containing more than 10 grams of fentanyl or any derivative thereof, if the net weight of fentanyl or any derivative thereof, or any mixture thereof is:

Fentanyl,—
trafficking.

(1) Ten grams or more but less than 36 grams, be punished by a term of imprisonment in the state prison for not less than 2 not more than 20 years. No sentence imposed under this clause shall be for less than a minimum term of imprisonment of 2 years.

(2) Thirty-six grams or more, but less than 100 grams, be punished by a term of imprisonment in the state prison for not less than 3½ nor more than 20 years. No sentence imposed under this clause shall be for less than a mandatory minimum term of imprisonment of 3½ years.

(3) One hundred grams or more, but less than 200 grams, be punished by a term of imprisonment in the state prison for not less than 8 nor more than 20 years. No sentence imposed under the provisions of this clause shall be for less than a mandatory minimum term of imprisonment of 8 years.

(4) Two hundred grams or more, be punished by a term of imprisonment in the state prison for not less than 12 nor more than 20 years. No sentence imposed under the provisions of this clause shall be for less than a mandatory minimum term of imprisonment of 12 years.”; and

By adding after section 1 (as published) the following section:

“SECTION 2. Notwithstanding any general or special law to the contrary, the provisions of subsection (c¾) of section 32E of chapter 94C of the General Laws, as inserted by section 1 of this act, shall not take effect until such time as the executive office for administration and finance, in conjunction with the executive office of public safety and security, has furnished a study of the legislation’s impact on the local economy and the revenue cost to the commonwealth and its municipalities and political subdivisions, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states and any anticipated change in employment and ancillary economic activity to the joint committee on judiciary, and until legislation has been filed and enacted pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”.

Further
amendments
adopted,—
yea and nay
No. 161.

On the question on adoption of the further amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 109 members voted in the affirmative and 43 in the negative.

[See Yea and Nay No. 161 in Supplement.]

Therefore the further amendments were adopted, thus precluding a vote on the pending amendment.

Bill passed to
be engrossed,—
yea and nay
No. 162.

After debate on the question on passing the bill, as amended, to be engrossed (the Speaker being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Fernandes of Milford; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 162 in Supplement.]

Therefore the bill (House, No. 3798, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Workforce
development
board.

The House Bill establishing a state workforce development board (House, No. 3772), reported by the committee on Bills in the Third Reading to be correctly, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill designating a portion of Route 3 as the Middlesex 3 highway (House, No. 3007) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly, was read a third time.

Middlesex,—
highway.

Pending the question on passing the bill to be engrossed, Mr. Speliotis of Danvers moved to amend it by striking out all after the enacting clause and inserting in place thereof the following:

“The section of U.S. highway route 3 beginning at its intersection with interstate highway route 95/state route 128 in the town of Burlington and ending at the New Hampshire state line, shall be designated and known as the Middlesex 3 Highway, in honor of the Middlesex 3 Coalition for their commitment to improving economic activity along the corridor. The Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.”.

The amendment was adopted; and the bill (House, No. 3007, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Next
sitting.

At twenty-eight minutes before six o'clock P.M., on motion of Mr. Jones of North Reading (Mrs. Haddad of Somerset being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.